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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2013-35**

12 **MARIA VICTORIA OBIAS BRUSH**  
13 **AKA MARIA VICTORIA GARCIA OBIAS**  
14 **AKA MARIA VICTORIA GARCIA BRUSH**  
15 **44 San Bonifacio**  
**Rancho Santa Margarita, CA 92688**

**A C C U S A T I O N**

16 **Registered Nurse License No. 359669**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
23 of Consumer Affairs.

24 2. On or about April 30, 1983, the Board of Registered Nursing issued Registered Nurse  
25 License Number 359669 to Maria Victoria Obias Brush, aka Maria Victoria Garcia Obias, aka  
26 Maria Victoria Garcia Brush, RN (Respondent). The Registered Nurse License was in full force  
27 and effect at all times relevant to the charges brought herein and will expire on July 31, 2014,  
28 unless renewed.

## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license during the period when the license can be renewed. Under Section 2811(b) of the Code, a license can be renewed for a period of eight years after expiration.

## STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

## REGULATIONS

7. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

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1 (a) Assaultive or abusive conduct including, but not limited to, those violations  
2 listed in subdivision (d) of Penal Code Section 11160.

3 (b) Failure to comply with any mandatory reporting requirements.

4 (c) Theft, dishonesty, fraud, or deceit.

5 (d) Any conviction or act subject to an order of registration pursuant to Section  
6 290 of the Penal Code.

7 8. California Code of Regulations, title 16, section 1445, states:

8 . . . .

9 (b) When considering the suspension or revocation of a license on the grounds  
10 that a registered nurse has been convicted of a crime, the board, in evaluating the  
11 rehabilitation of such person and his/her eligibility for a license will consider the  
12 following criteria:

13 (1) Nature and severity of the act(s) or offense(s).

14 (2) Total criminal record.

15 (3) The time that has elapsed since commission of the act(s) or offense(s).

16 (4) Whether the licensee has complied with any terms of parole, probation,  
17 restitution or any other sanctions lawfully imposed against the licensee.

18 (5) If applicable, evidence of expungement proceedings pursuant to Section  
19 1203.4 of the Penal Code.

20 (6) Evidence, if any, of rehabilitation submitted by the licensee.

### 21 COST RECOVERY

22 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
23 administrative law judge to direct a licentiate found to have committed a violation or violations of  
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
25 enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(September 26, 2011 Criminal Conviction for Second Degree Commercial Burglary,**  
3 **Petty Theft, and Possession of Burglary Tools on February 9, 2011)**

4 10. Respondent has subjected her license to disciplinary action under Code sections 490  
5 and 2761, subdivision (f), of the Code in that she was convicted of a crime that is substantially  
6 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as  
7 follows:

8 a. On or about September 26, 2011, in the Superior Court of California, County of  
9 Orange, Harbor Justice Center, in the case entitled *People of the State of California vs. Maria*  
10 *Victoria Obias Brush, aka Maria Victoria G. Obias*, Case No. 11HM06919, Respondent was  
11 convicted, on her plea of guilty, of violating Penal Code sections 459-460 (second degree  
12 commercial burglary), 484(a)-488 (petty theft), and 466 (possession of burglary tools),  
13 misdemeanors. As a result of Respondent's plea, a charge of violating Penal Code section  
14 148(a)(1) (resisting/obstructing a peace officer) was dismissed.

15 b. As a result of the above convictions, Respondent was placed on three years summary  
16 probation, and ordered to serve one day in the county jail, with one day credit for time served, pay  
17 various fines, submit to search and seizure, complete 80 hours of community service by July 18,  
18 2012, obey all laws, and ordered to stay away from any JC Penney Department Store in Orange  
19 County.

20 c. The facts that led to the convictions are that on February 9, 2011, at 1414 hours,  
21 Orange County Sheriff's Office Deputies were dispatched to the JC Penney Department Store  
22 located at 14255 Laguna Hills Mall, Laguna Hills, CA 92653 ("JC Penney"), in reference to a  
23 female that had been detained by loss prevention staff for shoplifting. Upon arrival, deputies  
24 spoke with loss prevention staff ("staff") who informed them that they had been monitoring the  
25 JC Penney jewelry department via closed circuit television when they noticed a female carrying a  
26 large purse. Staff observed Respondent pick up two jewelry boxes, walk into the clothing  
27 department and drop the boxes in her purse. Staff then observed Respondent walk back to the  
28 jewelry department, pick up three more jewelry boxes, walk to the sportswear department, and

1 pick up shirts. Respondent was then observed by staff to walk into a fitting room with the  
2 merchandise and the large purse. When Respondent walked out of the fitting room, she was only  
3 holding the purse. Surveillance of Respondent was maintained while one of the staff members  
4 searched the fitting room. Staff found tags, hangers and empty jewelry boxes inside the fitting  
5 room Respondent had used. Respondent was then observed walking out of JC Penney without  
6 paying for any merchandise. JC Penney staff made contact with Respondent and escorted her to  
7 the loss prevention office where staff recovered six pieces of jewelry and three tank shirts, with a  
8 combined total value of \$450. Staff also recovered three price tags for the shirts and two pairs of  
9 scissors inside Respondent's large purse. Respondent was placed under citizen's arrest until  
10 deputies arrived. When deputies arrived, they searched Respondent's person and found another  
11 pair of smaller scissors inside her sweater pocket.

12 d. Deputies transported Respondent to the Orange County Jail and, during the medical  
13 screening, a jail nurse informed deputies that Respondent needed to be taken to the hospital to be  
14 medically cleared because of her high blood pressure. Respondent overheard the exchange  
15 between deputies and jail staff regarding the need to be taken to the hospital and Respondent  
16 stated, "I'm not going to the hospital." Respondent was sitting down on a bench. When deputies  
17 asked Respondent to stand up, Respondent did not comply and again told deputies that she was  
18 not going to the hospital. When deputies tried to assist Respondent, she resisted and a deputy had  
19 to use both of his hands to stand her up. Respondent was then transported to Western Medical  
20 Center in Anaheim. On the way to the hospital, Respondent informed deputies that the reason she  
21 did not want to go to the hospital was because she is a nurse and Western Medical Center in  
22 Anaheim is a sister hospital to the hospital she works for, that she was scared someone would  
23 recognize her and she would get fired, and that this was the reason why she refused to stand up.

#### 24 SECOND CAUSE FOR DISCIPLINE

25 (October 19, 2011 Criminal Conviction for Petty Theft on July 19, 2011)

26 11. Respondent has subjected her license to disciplinary action under Code sections 490  
27 and 2761, subdivision (f), of the Code in that she was convicted of a crime that is substantially  
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1 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as  
2 follows:

3 a. On or about October 19, 2011, in the Superior Court of California, County of Orange,  
4 Harbor-Newport Beach Facility, in the case entitled *People of the State of California vs. Maria*  
5 *Victoria Obias Brush*, Case No. 11HM12331, Respondent was convicted, on her plea of guilty, of  
6 violating Penal Code section 484(a)-488 (petty theft), a misdemeanor.

7 b. As a result of the above conviction, Respondent was placed on three years summary  
8 probation, and ordered to serve one day in the county jail, with one day credit for time served,  
9 serve 80 hours of community service by July 18, 2012, submit person and property, including  
10 residence, premises, container, or vehicle under Respondent's control to search and seizure, pay  
11 various fines and fees, and stay away from Costco stores.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
14 and that following the hearing, the Board of Registered Nursing issue a decision:

15 1. Revoking or suspending Registered Nurse License Number 359669, issued to Maria  
16 Victoria Obias Brush, aka Maria Victoria Garcia Obias, aka Maria Victoria Garcia Brush, RN;

17 2. Ordering Maria Victoria Obias Brush, aka Maria Victoria Garcia Obias, aka Maria  
18 Victoria Garcia Brush, RN, to pay the Board of Registered Nursing the reasonable costs of the  
19 investigation and enforcement of this case, pursuant to Business and Professions Code section  
20 125.3;

21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: July 12, 2012

23 *for* LOUISE R. BAILEY, M.ED., RN  
24 Interim Executive Officer  
25 Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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